



COUNCIL MINUTES

August 14, 2008

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on August 14, 2008 at 7:32 a.m.

COUNCIL PRESENT

Mayor Scott Smith
Alex Finter
Dina Higgins
Kyle Jones
Dennis Kavanaugh
Dave Richins
Scott Somers

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

(Items on the agenda were discussed out of order, but for purposes of clarity will remain as listed on the agenda.)

1. Review items on the agenda for the August 18, 2008 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflicts of interest declared: None

Items removed from the consent agenda: 8f

2. Discuss and provide direction on the process to appoint a City Magistrate.

Mayor Smith introduced Scott Rhodes, a member of the Judicial Advisory Board, who was present to provide background information regarding the process for appointing a City Magistrate.

Mr. Rhodes outlined the responsibilities of the Judicial Advisory Board (JAB) and the manner in which the Board operates. He noted that JAB has presented the Council with the names of three candidates to fill one vacant City Magistrate position. Mr. Rhodes advised that the Judicial Advisory Board is codified in the City Code (Chapter 3, Section 2). He said that although the Boardmembers are appointed by the Council, the Board operates independently of both the Council and the City Court., which enables the Council to be free of political pressures regarding the appointment of Magistrates and maintains the integrity of the City Court system. Mr. Rhodes

stated that the Board consists of the Presiding Judge of the Arizona Superior Court for Maricopa County, or designee; one Arizona Appellate Court Judge appointed by the Chief Justice of the Arizona Supreme Court; one active member of the State Bar of Arizona who resides in Mesa; one member of the Maricopa County Bar Association who resides in Mesa; and three Mesa electors who are not City employees, judges in any official capacity, retired judges or members of the State Bar of Arizona. He reported that the Board interviewed six of the 22 highly-qualified applicants for the current opening and selected three candidates, which are presented for Council consideration in alphabetical order without indicating a preference for any one candidate. Mr. Rhodes said the Council is being provided with copies of the applications submitted by the three individuals selected, DVDs of the interviews conducted, and a letter from the Board that describes the positive attributes of each of the individuals in a neutral manner.

Mr. Rhodes stated that another aspect of the Board's responsibility is to provide the Council with recommendations regarding the reappointment of Magistrates, and he advised that Magistrates are initially appointed for a two-year term, after which the first reappointment is for another two-year term and then subsequent reappointments of that individual would be for four-year terms. He said that every person who interacts with the Arizona State court system (defendants, attorneys, witnesses, jury members, or staff members) has the opportunity to complete a survey regarding the performance of the judge. Mr. Rhodes reported that the members of the Judicial Advisory Board review the surveys as well as personally observing each judge in the courtroom in order to make recommendations to the Council regarding reappointments.

Mr. Rhodes advised that the entire Board reviewed all applications and, by majority vote of the Board, selected six candidates to be interviewed. He stated that individual Boardmembers were assigned the task of performing due diligence with respect to the references provided by a specific applicant, after which a report was provided to the entire Board regarding the information obtained. Mr. Rhodes said that the Board jointly prepared a list of questions, which were asked of each applicant during the interview process, and then the field of candidates was narrowed to three individuals for consideration by the Council.

Mr. Rhodes, noting that the Mayor requested a recommendation on the manner in which the Council should proceed, suggested that the Council review the materials provided and consider the demeanor of each candidate during the interview process. He explained that an effective City Court Magistrate must be able to handle the stress resulting from a high volume of cases, command a courtroom with respect and effectively communicate legal rights to individuals who appear before the court without representation so that these individuals can make an informed and knowledgeable decision.

Mayor Smith thanked Mr. Rhodes for the presentation, and he acknowledged that the Board takes their responsibilities very seriously. He said that the selection of judges is one of the Council's most important tasks, and he expressed appreciation for the efforts of the Board.

Councilmember Kavanaugh recalled that during a prior term on the Council, he participated with Mr. Rhodes to establish the existing ordinance for the selection of judges. He stated that he found the integrity of both the process and the Board to be very gratifying. Councilmember Kavanaugh added that a municipal court judge is a challenging position that is extremely important to the community.

Mayor Smith suggested that the Council review the materials provided by the Board during the week, after which the Council could determine the next step in the process, such as selecting an individual based on the information provided or possibly inviting the three candidates to participate in a follow-up interview process with the Council.

Mr. Rhodes advised that the ordinance provides three choices for the Council relative to the slate of candidates presented by the Board: 1) Select one of the three candidates proposed by the Board, 2) Reject all three candidates and request a new recommendation from the Board; and 3) Refer one or more of the candidates back to the Board with a request for additional due diligence. He added that the Council could also request an opportunity to interview the candidates in person.

Responding to a request from Mayor Smith, City Manager Christopher Brady stated that this item would be placed on the August 25, 2008 Study Session agenda.

3. Recess the Study Session and Convene a Special Council meeting.

It was moved by Vice Mayor Jones, seconded by Councilmember Kavanaugh, to recess the Study Session in order to convene a Special Council meeting for the purpose of entering into an Executive Session.

Carried unanimously.

Mayor Smith convened the Special Council meeting at 8:34 a.m.

4. Adjourn the Special Council Meeting and Reconvene the Study Session.

Without objection, the Special Council meeting was adjourned at 10:13 a.m.

Mayor Smith reconvened the Study Session at 10:14 a.m. with all members present except Vice Mayor Jones, who was excused from the remainder of the Study Session.

5. Hear a presentation, discuss and provide direction on revising the policy for the establishment of Community Facility Districts (CFD) in the City of Mesa.

Economic Development Project Manager Scot Rigby addressed the Council and introduced Keith Hoskins of Gust Rosenfeld, P.L.C., the City's bond counsel, who has provided assistance to staff with regard to Community Facility Districts (CFD).

Mr. Rigby displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) and advised that a CFD is a special purpose improvement district within the City's boundaries that operates as a separate political subdivision and is governed by the CFD Board Council, which typically consists of the Mayor and Councilmembers. He added that a CFD has the authority to levy property taxes and assessments.

In response to a question from Mayor Smith, Mr. Hoskins advised that the CFD Board has the authority, similar to the authority of a school district, to levy a property tax within that district. He added that the Board also has the authority to levy special assessments and charge fees.

Mayor Smith explained that citizens or entities within the boundaries of a district have voluntarily agreed to tax themselves by participating in the CFD. He emphasized that the taxes would not be applied Citywide.

Mr. Rigby stated that CFDs facilitate efforts with the development community to manage growth and to finance infrastructure without impacting limited City resources.

Mayor Smith commented that a CFD enables growth to pay for itself. He added that a CFD is the mechanism by which the entities that create a need are fulfilling that need.

Mr. Rigby advised that part of the tax levy could address operating and maintenance costs associated with CFD public improvements, and he said that the CFD does not affect the City's bonding capacity or bond rating. He listed three financing methods that are available: 1) General Obligation bonds; 2) Assessment bonds, and 3) Revenue bonds.

Responding to questions from Councilmember Richins, Mr. Hoskins stated that the CFD bonds would be rated based on the value of the land, the owners of the property and the status of the development. He explained that in the case of General Obligation bonds, the credit market evaluation of the bonds would take into consideration the amount of bonds issued and a one or two dollar assessed tax rate could result in a strong rating while a five or six dollar rate could result in a weaker rating. Mr. Hoskins said that assessments would be evaluated based on a comparison of the assessment to the value of the land. He noted that the rating also depends on the structure of the agreement, and he added that the credit worthiness of the City of Mesa would not be a consideration. Mr. Hoskins summarized that the primary rating factor would be the value of the land and that other factors could include the financial strength and development experience of the land owner.

Mayor Smith noted that market conditions limit this type of financing to appropriate projects.

Mr. Hoskins advised that the CFD Board has the responsibility and the decision making authority regarding the issuance of bonds. He stated that the guidelines establish the basic parameters for the coverage tests and target tax rates, etc., and he noted that a development agreement is typically in place when a CFD is formed. Mr. Hoskins said that the developer may ask the CFD to commit to certain limits and restrictions, and he said that the Board determines whether or not the bonds should be issued.

Mr. Rigby commented that the policy also addresses an independent market absorption analysis of this type of project that would indicate if the proposed assessments would pay for the bonds. He continued the PowerPoint presentation by advising that the following projects were eligible for CFD funding:

- Police and fire stations.
- Libraries.
- Parks, recreation centers and open space.
- Streets, including lighting and traffic signals.
- Vehicles and equipment.
- Water/wastewater systems.
- Operation and maintenance costs (up to \$0.30/\$100 assessed value property tax).

Mr. Rigby reported that a CFD policy, adopted by the Council in 2002, has not been utilized, and he suggested that the Council may wish to update the existing policy. He advised that upon receipt of an application from a landowner, staff would evaluate the application and make a recommendation to Council. Mr. Rigby said that following a Council decision to form a district, a development agreement would be implemented, bonds would be issued and construction could begin. He added that the project would also require ongoing administration.

Mr. Rigby stated that a CFD is identified as a financial tool in the Mesa Gateway Strategic Plan, and he said that a number of large property owners in the Gateway area have expressed an interest in this tool. He advised that the CFD Policy update targets three areas: 1) CFD deposit fees; 2) Taxation levy standards; and 3) Technical corrections. He reported that an initial, non-refundable application fee of \$75,000 is proposed to initiate the CFD process, and an additional deposit of \$60,000 would address the costs of staff time for the evaluation, review and analysis. He added that a \$25,000 fee would address the costs associated with elections and the costs to issue the bonds/assessments.

Responding to a series of questions from Mayor Smith, Mr. Hoskins stated the opinion that the proposed fees are reasonable and acceptable to the market. He noted that a city would not want to implement a number of small CFDs, and he explained that CFDs are typically implemented for large-scale projects and are developer driven. Mr. Hoskins explained that when \$60,000 for staff time is drawn down as actual costs are incurred, the developer would be required to deposit additional funds. He added that the \$25,000 fee also addresses actual costs and, if additional funds are required, the developer would be required to provide those funds.

In response to a question from Councilmember Somers regarding the impact of a Bond Election that addresses facilities similar to infrastructure requirements for a CFD, Mr. Hoskins stated that if a secondary property tax was implemented for Citywide bonds, all properties within the City, including those within a CFD, would be assessed.

City Manager Christopher Brady advised that studies have been completed on that type of scenario, and he said that the information would be provided to the Council.

Responding to a question from Mr. Brady, Mr. Hoskins stated that a CFD is a long-term entity, and that a portion of the bonds could be issued over a period of years. He added that the developer could advance a project, such as a road or a water line, and then be reimbursed by the issuance of a bond. Mr. Hoskins advised that a CFD target tax limit is usually established and closely monitored by the Board in order to ensure that the tax amount is relatively small.

Discussion ensued relative to the fact that some costs could be shared by the developer and the City; that responsibilities for costs would be negotiated; that the CFD could reimburse the developer for some of the costs; that the CFD provides a long-term financing mechanism for area-specific infrastructure; and that the primary use of CFDs is to fund streets and roadways.

Mr. Hoskins cited an example of utilizing a CFD when a large development requests a fire station that the City does not anticipate constructing for a number of years.

Councilmember Finter requested that staff provide him with information regarding the resident notification process.

Mayor Smith noted that the consensus of the Council is that staff is directed to prepare a formal CFD policy for Council consideration.

Mayor Smith thanked staff and Mr. Hoskins for the presentation.

6. Hear reports on meetings and/or conferences attended.

Mayor Smith: Meeting with Parks & Recreation Department employees.

Councilmember Somers: Grand opening of Emergency Room at Banner Baywood Hospital.
Participated in a test run of the Light Rail Transit System.

Councilmember Higgins: Fire Department Drowning Prevention Awareness Program Event.

Councilmember Higgins noted that wearing a purple ribbon indicates support for the Fire Department's Drowning Awareness Program. She also thanked Executive Management Assistant to the City Manager Carla Wagner for implementing double-sided pages in the Council packet, which generates savings and conserves paper.

Vice Mayor Jones expressed appreciation to the employees, service groups and non-profit agencies for their continued efforts during the summer break.

Councilmember Kavanaugh: Meeting of the current Mesa Leadership Training class.
Kick-off event for the new season of the Southwest Symphony.

7. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Monday, August 18, 2008, TBA – Study Session

Monday, August 18, 2008, 5:45 p.m. – Regular Council meeting

Thursday, August 21, 2008, 7:30 a.m. – Study Session (Cancelled)

Monday, August 25, 2008, 3:30 p.m. – Public Safety Committee meeting

Monday, August 25, 2008, TBA – Study Session

Monday, August 25, 2008, 5:45 p.m. – Regular Council meeting

Monday, September 8, 2008, TBA – Transportation and Infrastructure Committee meeting

8. Items from citizens present.

Grace Cokeley, 858 North Power Road, addressed the Council in support of an annexation request on the August 18, 2008, Council agenda (item 5I – Case No. 08-12), for which staff is considering denial. She said that the regulations regarding annexations have changed since her application was initiated and that her application is now being held to a different standard.

9. Adjournment.

Without objection, the Study Session adjourned at 10:41 a.m.

SCOTT SMITH, MAYOR

ATTEST:

LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 14th day of August 2008. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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